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SUMMARY RECORD OF THE 33rd MEETING

Chairman: Mr. CISSÉ (Senegal)

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The meeting was called to order at 3.20 p.m.

AGENDA ITEM 100: HUMAN RIGHTS QUESTIONS (A/49/57 and Corr.1, A/49/58, A/49/75-S/1994/180, A/49/182, 206, 220, 221, 265, 271, 282, 283, 286, A/49/287-S/1994/894 and Corr.1, A/49/292, 298, 304, 386, 422, 532 and 591)

(a) IMPLEMENTATION OF HUMAN RIGHTS INSTRUMENTS (A/49/40, 41, 44, A/49/228-S/1994/827, A/49/261-E/1994/110, A/49/264-E/1994/113, A/49/364, 405, 408, 409, 426, 484 and Add.1, 537 and 642; E/1994/23; A/C.3/49/5 and 6)

(e) CAPITAL PUNISHMENT (A/49/234 and Add.1 and 2)

1. Mr. FALL (Assistant Secretary-General for Human Rights), introducing sub-item 100 (a) said that the United Nations human rights instruments were universal in nature and application, and lay at the core of the international human rights order. The standards set forth in them served as a guide for the Organization's various activities, from economic and social development to international peace-keeping. Much more progress had to be made towards the goal of universal ratification of the basic international human rights treaties, an important objective affirmed in the 1993 Vienna Declaration and Programme of Action.

2. The bodies monitoring implementation of the human rights treaties constituted an integrated system that dealt with the broad spectrum of human rights as an indivisible and interdependent whole. Their work represented an invaluable guide for applying those standards in diverse legal systems in all regions of the world. It was therefore imperative that the treaty bodies should receive the necessary support in monitoring and facilitating implementation of human rights standards in an ever-increasing number of States.

3. There had been many notable developments in 1994 in that area, including the fifth meeting of persons chairing the human rights treaty bodies. Those meetings had become one of the most dynamic and innovative forums in the field of human rights. The report of the fifth meeting (A/49/537) contained many valuable suggestions and recommendations aimed at improving the work of the treaty bodies and ensuring more effective coordination in areas of common concern with other United Nations bodies and agencies. In 1994, the treaty bodies had continued to improve their methods of work, particularly in following up their concluding observations with respect to country reports and establishing closer links between their recommendations and the advisory services and technical assistance of the Centre for Human Rights.

4. The Human Rights Committee, as indicated in its report (A/49/40), had adopted two general comments, one on the issue of minority rights under article 27 of the International Covenant on Civil and Political Rights, and the other on a variety of key issues relating to reservations: it had also continued its practice of requesting States parties facing serious difficulties in implementing the Covenant to submit urgent reports, generally within three

months. The Human Rights Committee had, in addition, taken some 60 decisions on individual cases under the Optional Protocol.

5. The Committee on Economic, Social and Cultural Rights, whose report was contained in document E/1994/23, had noted the important role that the advisory services and technical assistance of the Centre for Human Rights could play in assisting States parties in implementing the International Covenant on Economic, Social and Cultural Rights. In that connection, it had decided to identify the most useful types of projects to promote economic, social and cultural rights and had emphasized the role that the 1995 World Summit for Social Development should play in promoting those rights.

6. The Committee against torture, as indicated in its report (A/49/44), had devoted nearly half of its meetings to confidential inquiries under article 20 and individual complaints under article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In addition to considering numerous State reports, it had provided valuable input to the working group of the Commission on Human Rights elaborating the draft optional protocol to the Convention and had met with the Special Rapporteur on questions relating to torture on matters of mutual concern in order to strengthen cooperation.

7. The Convention on the Rights of the Child was the first human rights treaty that was approaching universal ratification, with 167 States parties as of 1 November 1994. The Committee on the Rights of the Child, as emerged from its report (A/49/41), was fully engaged in the consideration of States reports. It had adopted detailed observations on steps to be taken by States parties to apply the provisions of the Convention more effectively, and had worked to mobilize international assistance to help States parties comply with its recommendations. That Committee held regular meetings with relevant United Nations bodies, specialized agencies and other competent bodies in order to consider ways to strengthen cooperation and achieve common goals as defined by the Vienna Declaration and Programme of Action. It had held general discussions on specific articles of the Convention or related subjects, and had also prepared a preliminary draft optional protocol on involvement of children in armed conflicts. The Centre for Human Rights had sought to enhance its support for that Committee and was implementing a comprehensive computerized database project on the Convention on the Rights of the Child, which would ultimately serve as the basis for computerizing the work of all of the treaty bodies.

8. In addition to helping the victims of torture directly, the United Nations Voluntary Fund for Victims of Torture had also been able to assist relatives of those victims and had contributed to the development and application of suitable treatment for torture victims. The Secretary-General's report was contained in document A/49/484. On behalf of the Secretary-General, the High Commissioner for Human Rights had approved recommendations by the Fund's Board of Trustees for financing 106 projects and sub-projects in 60 countries.

9. Mr. MUCH (Germany), speaking on behalf of the European Union and Austria, said that the Vienna Declaration and Programme of Action had underlined the

universality of human rights and the need to strengthen the system of human rights treaty-monitoring bodies. To that end, they encouraged those bodies to continue their efforts to increase coordination among themselves and welcomed the definition by the High Commissioner for Human Rights of his role as essentially one of facilitating and coordinating their fact-finding and evaluation efforts.

10. In accordance with the consensus reached at Vienna, the European Union would defend the existing monitoring mechanisms against any attempts to reduce their scope or interfere with the independent execution of their mandates. It welcomed the campaign inspired by that consensus for universal adherence to the human rights instruments. In that connection, they called on States which had entered reservations to consider withdrawing them.

11. Given its diverse make-up, the Union was well aware of the significance of historical, cultural and religious particularities. It was convinced, however, that such differences did not constitute grounds for exemption from any human rights treaty obligations, including monitoring. The fact was that States stood to benefit from full and constructive cooperation with the monitoring mechanisms. That meant providing all requested information, facilitating visits and giving adequate follow-up to recommendations. It also meant submitting full and timely reports, even if some simplifications in the rules for their preparation had been rightfully recommended.

12. The European Union urged States to declare that they accepted the procedures for complaints by individuals laid down in the international human rights instruments. In addition, it welcomed the innovative approach to treaty monitoring outlined in the draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In future negotiations, it would be essential not to burden the envisaged procedure with restrictions or preconditions that would diminish its deterrent effect. It was the solemn duty of the international community to ensure that the human rights instruments were effectively and comprehensively translated into fact.

13. Mrs. FERRARO (United States of America) said that her Government was committed to working with the international community to build a world based on the principles of human rights, democracy and the rule of law in the search for solutions to global challenges. The United States had taken a number of steps towards ratifying the key human rights instruments. It had ratified the Convention against Torture, urging all nations to adopt legislation to prevent incommunicado detention and permit human rights bodies to carry out on-site inspections of all detention facilities. Those who committed torture should be held individually accountable for their acts and there should be no statute of limitation for prosecuting them. The United States was also the leader in assisting victims of torture, and in 1994 had contributed $1.5 million to the United Nations Voluntary Fund for Victims of Torture.

14. Her country had also ratified the International Convention on the Elimination of All Forms of Racial Discrimination and was pleased that the Commission on Human Rights had reached a consensus that anti-Semitism was a form

of racism. The United States was looking forward to playing a more effective role in the discussion of evolving international norms and would share with the international community its hard-won experience in combating racism and other forms of discrimination.

15. Her country had submitted its initial report to the Human Rights Committee in compliance with the International Covenant on Civil and Political Rights. The United States legal and political systems provided superlative human rights protections and it was proud of its record, while working hard to remedy its shortcomings. Her Government was also actively pursuing ratification of the Convention on the Elimination of All Forms of Discrimination against Women. All those measures were part of a greater effort to imbue the United Nations human rights system with new energy and purpose. By working together, Governments, multilateral organizations and non-governmental organizations could have a deep and lasting effect on the development and strengthening of human rights mechanisms.

16. Mr. PACE (Malta) said that, having progressed to the full flowering of just, consensual societies, the world should make an essential conceptual breakthrough by acknowledging that the vision of a single world-wide human community had become a reality. Since the end of the Second World War, there had been a growth in the number of democratic nations striving to give their citizens the basic freedoms which had been the cornerstone of political philosophy since the eighteenth century. The human personality could not develop without full respect for human rights, and democratic societies could not survive without the rule of law. It was a universal duty to secure the protection and promotion of human rights. The notion that the State existed to serve the individual, rather than the reverse, had originated many years before but was still entirely valid. The fact that realities did not always live up to such principles served to emphasize the need to strengthen the spectrum of human rights organizations.

17. Infringements of human rights were not attributable only to acts of government; they were sometimes due to the irresponsible acts of other social forces. The media, trade unions and political parties required a great sense of responsibility.

18. The goal of the well-being of the individual in society, and the importance of the human dimension in all the endeavours of the international community, were of supreme importance. Collective actions aimed at ensuring protection of human rights should not be unduly constrained by arguments over national sovereignty; the mandates of human rights bodies should be enlarged along the lines of the equivalent institutions within the Council of Europe. Malta fully supported the outcome of the 1993 World Conference on Human Rights; its conclusions should be implemented in full, as the basic foundation for peace, security and prosperity world wide.

19. Cooperation between the Centre for Human Rights and other United Nations bodies should be further developed so as to maximize the use of resources. Malta fully supported the work of the High Commissioner for Human Rights, and

welcomed the many worthy initiatives taken during the past year. He trusted that it would eventually be possible to establish a world court for the protection of human rights; to do so would constitute a bold step in the universal implementation and enforcement of human rights. The instruments regulating such a body could be inspired by those which already governed the European Court of Human Rights in Strasbourg.

20. The Maltese Constitution entrenched and fully protected human rights and fundamental freedoms. Yet the mere letter of the law must be coupled with the political will to strengthen its provisions; that in turn needed to be nurtured by a human rights culture. In Malta, public sensitivity was maintained via the media and education at all levels. Malta had also been in the forefront in supporting action at the regional and international levels to secure the indivisibility, universality and full development of human rights.

21. Respect for human rights, part of the common heritage of mankind, required strengthening of already existing human rights instruments and coordination of the efforts of the various international bodies entrusted with safeguarding those rights. His delegation invited Member States to consider modifying the mandate of the Trusteeship Council, which would then hold that common heritage in trust for humanity.

22. The credibility of human rights was put to the test in times of economic, social and political upheaval. Dynamic and broadly shared economic growth, coupled with solidarity and subsidiarity, would strengthen democracy and human rights. In times of change, it was necessary to ensure that no individual or group found the right to life endangered by lack of food, employment, adequate health assistance and shelter. There could be no greater hypocrisy than living with human rights proclaimed on paper and disregarded in practice.

23. Mr. CHEW (Singapore) said that, although his delegation had accepted the recent inclusion in the agenda of the subject of capital punishment, it strongly opposed efforts by certain States to use the United Nations to impose their own values and system of justice on other countries. The death penalty was a necessary component of the administration of law and order in Singapore, and his delegation would not accept attempts to seek its abolition through decisions of the General Assembly.

24. The promotion of the convicted prisoner's human rights should be weighed against those of his victims and the rights of the community to live in peace and security. The draft resolution contained in the appendix to document A/49/234 was unbalanced, since the right to life of the victims of serious crimes had been ignored. Murderers, gangsters and drug syndicates had resorted to their own form of death penalty upon their hapless victims; the draft resolution failed to mention the suffering and loss of income resulting from such crimes. The international community should not ignore the rights of victims' families and the public at large. Furthermore, as was evident from the wording of the International Covenant on Civil and Political Rights, there was no universal consensus that capital punishment was contrary to international law.

25. States which opposed the death penalty on principle had the right to abolish or to refrain from using such punishment, but they should not seek to impose their values on others. The Government and people of each country must deal with law and order problems in their own way, taking into account their respective circumstances; there was no universal validity for one given approach. Furthermore, the abolition of the death penalty did not necessarily contribute to the advancement of human dignity. On the contrary, its retention in Singapore had served to preserve and safeguard the interests of society as a whole in the maintenance of law and order, which was an important precondition for the preservation of human dignity and the promotion and enjoyment of other human rights. Without it, the level of drug trafficking in his country, currently under firm control, would have reached epidemic proportions.

26. In Singapore, capital punishment was reserved for serious crimes, such as drug trafficking, certain arms offences, kidnapping for ransom, hijacking and murder, which gravely affected public safety and good order, and threatened the right to life of others. No sentence of death could be passed on an offender aged under 18 at the time of the offence, or on a woman if the court was satisfied that she was pregnant at the time of her conviction.

27. For those reasons, his delegation would vote against the draft resolution. He called upon all States whose legislation included capital punishment to do the same; they should not permit the advocates of abolition to overwhelm their views or to foist upon them their values and system of justice. For the same reason, he urged all other delegations to abstain.

28. Mr. HEJČ (Czech Republic) said that, during the period since the end of the Second World War, the United Nations had done a lot to introduce gradually the idea of human rights into international legal relations, thus substantially affecting the values and legal systems of individual Member States. The 1993 World Conference on Human Rights had, however, revealed weak points in the implementation of international human rights norms.

29. There was scope for criticism regarding the effectiveness of international human rights treaties and of the current non-contractual control mechanisms functioning within the framework of the United Nations. Periodic reports were a positive aspect of treaties, but the practice of control bodies led to considerable delays in discussing the contents of those treaties, the effectiveness of which consequently declined. It was necessary to strengthen the control functions of the United Nations and to enable fact-finding on the human rights situation in individual countries. The Czech Republic therefore welcomed the establishment of the office of the United Nations High Commissioner for Human Rights, and hoped that it would produce a fresh point of view, new approaches to the protection of human rights, and improved assistance to the victims of human rights violations.

30. The armed conflicts under way in a number of regions caused many human rights violations, and it was alarming how helpless the international community was to settle those conflicts, such as those in Rwanda, on the Indian-Pakistani border, in the former Yugoslavia, in Yemen and in the Transcaucasian republics.

The populations in many countries, including those in Europe, were scourged by various expressions of terrorism, and the people of numerous States suffered under military or paramilitary regimes. Such situations continued despite the existence of human rights treaties and norms of international humanitarian law. However small an armed conflict was, the international community had a duty to give it due attention, providing assistance and cooperation in the interest of finding a solution. He emphasized the importance, in that context, of the International Conference on the Protection of War Victims held in Geneva in 1993, and of the subsequently established group of governmental experts on humanitarian law.

31. His Government was preparing to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. Capital punishment had in fact been abolished in the Czech Republic in 1990.

32. He expressed satisfaction at efforts by parties to a number of conflicts in various parts of the world, such as South Africa and the Middle East, to settle their differences to the satisfaction of both sides. Such progress was an example to be followed by others.

33. Ms. AL-HAMAMI (Yemen) said she objected to the assertion by the representative of the Czech Republic that the problem in her country was among those the United Nations had not resolved positively. She was convinced that the United Nations role had been most positive and did not think that her country's situation should be placed on a par with that of Rwanda and the former Yugoslavia.

34. Mr. RAZALI (Malaysia) said that the countries urging inclusion of the question of capital punishment in the agenda were trying, with good if misguided intentions, to impose an international consensus where there was none. In pressing for the abolition of capital punishment, they were sanctimoniously pressuring and passing unfair judgement on others that valued human life equally. Moreover, by pitting different religions and sets of values against one another, the draft resolution they wished to introduce would do the United Nations grave harm.

35. Some of the countries in question were being hypocritical, since they practised capital punishment by allowing soldiers to shoot to kill murderers or pillagers. Perhaps those among them that managed to apprehend only a small percentage of their killers were rationalizing their inability to stand up for their people as a commitment to an alleged principle of human rights.

36. Every State had the right to choose the penal system most appropriate to the needs of its society. In his country, it was used as a last resort after due process of law. His country's people believed in the sanctity of human life, and some in fact had problems with capital punishment. However, everyone recognized that the State must be able to impose that penalty in order to maintain its authority.

37. Mr. THOMPSON (Jamaica) said that the issue of capital punishment was one of great importance to Jamaica, where the death penalty was used in certain cases of murder. The decision as to whether capital punishment should exist was a prerogative of sovereign States; no blanket principle could apply, just as in individual cases where the court had to decide whether the death penalty was appropriate. His Government was responsible to the Jamaican people, and would be guided by the wishes of the overwhelming majority, who favoured capital punishment. His delegation would therefore vote against the draft resolution regarding the Second Optional Protocol to the International Covenant on Civil and Political Rights.

AGENDA ITEM 98: INTERNATIONAL DRUG CONTROL (continued)

Draft resolution A/C.3/49/L.13/Rev.1

38. Mr. FERNANDEZ PALACIOS (Cuba), speaking on behalf of the original sponsors and Belgium, France, India and Nicaragua, introduced draft resolution A/C.3/49/L.13/Rev.1 on international action to combat drug abuse and illicit production and trafficking. The text had been drafted on the basis of General Assembly resolutions 48/12 and 48/112, the results of the Economic and Social Council's 1994 coordination segment, and concerns expressed by various delegations. Like its predecessor, omnibus resolution 48/112, it was a step towards rationalizing the work of the Committee and reflected the priority assigned by all the Member States to international cooperation in the fight against drug abuse, production and illicit trafficking. The sponsors hoped that it would also be useful to the future work of the Commission on Narcotic Drugs and the United Nations International Drug Control Programme, and they invited the Committee to adopt it by consensus.

AGENDA ITEM 99: REPORT OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES, QUESTIONS RELATING TO REFUGEES, RETURNEES AND DISPLACED PERSONS AND HUMANITARIAN QUESTIONS (continued)

Draft resolution A/C.3/49/L.16

39. Ms. MURUGESAN (India), speaking on behalf of the sponsors - Bangladesh, India and the Russian Federation - introduced draft resolution A/C.3/49/L.16 on the enlargement of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees from 47 to 50 Member States. The sponsor countries, which had received and continued to receive refugees, had been supported by the Economic and Social Council for membership in the Executive Committee. They hoped that the Third Committee would endorse that support by adopting the draft resolution without a vote. Whatever the outcome of the Committee's deliberations, they would continue to endeavour to promote the cause of refugees.

Draft resolution A/C.3/49/L.17

40. Mr. SIDDIG (Sudan), speaking on behalf of the original sponsors and Morocco, introduced draft resolution A/C.3/49/L.17 on assistance to

unaccompanied refugee minors. Unaccompanied minors were among the most vulnerable refugees and required special attention. The draft resolution expressed deep concern at their plight and called for the mobilization of resources commensurate with their needs, especially reunification with their families. It requested all Governments, the Secretary-General, the United Nations High Commissioner for Refugees, the Department of Humanitarian Affairs, the United Nations Children's Fund and other United Nations agencies to mobilize adequate assistance to them with respect to relief, education, health and psychological rehabilitation, and asked the Secretary-General to report to the General Assembly at its fiftieth session on the implementation of the resolution.

41. He wished to make a number of oral amendments to the draft resolution. In the third preambular paragraph, the words "sectors of refugees who" should be replaced by "refugees and". The fifth preambular paragraph should read: "Noting with satisfaction that the Office of the United Nations High Commissioner for Refugees has developed revised guidelines on refugee children, issued in May 1994". In the sixth preambular paragraph, the words "in the" should be replaced by "to ensure" and the phrase "including refugee children and unaccompanied minors" should be added at the end. The seventh preambular paragraph should be replaced by the following: "Recalling the provisions concerning the protection of refugee minors of the Convention on the Rights of the Child and the 1951 Convention and 1967 Protocol relating to the Status of Refugees".

42. In paragraph 1, the word "location" should be replaced by "numbers and whereabouts". In paragraph 2, "all Governments" should be inserted after "Calls upon" and the phrase "to assist and protect refugee minors" should be added after "maximum effort". In addition, the words "in expediting" should be changed to "and expedite" and the phrase "in conformity with the relevant provisions of the Convention on the Rights of the Child" should be appended.

43. Paragraph 3 should be rewritten to read: "Requests the United Nations High Commissioner for Refugees and other United Nations concerned agencies to mobilize resources commensurate to the needs and interest of the unaccompanied refugee minors and for their reunification with their families."

44. In paragraph 4, the words "the acts" should be replaced by "all acts"; "as human shields" should be expanded to "and their use as human shields in armed conflict"; and "service" should be substituted for "insurgence". Paragraph 6 should be deleted and paragraph 7 renumbered accordingly.

45. He thanked all the delegations that had participated in the drafting of the text and expressed confidence that, because of the humanitarian nature and importance of the issue the Committee would adopt the draft resolution without a vote.

The meeting rose at 4.55 p.m.